IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 24668 of 2003

Between:

M/s. Hyderabad Cylinders (P) Ltd., Flat No. 402, 4th Floor, Malti Naik Plaza, Hanuman Tekdi, Hyderabad - 500 001. rep by its Managing Director, Mr. Vijay Sanghvi, S/o. Late Nandlal Sanghvi age 39 years

..... PETITIONER

AND

1 Additional Commissioner, (CT), Letal, Office of the Commissioner of Commercila Taxex, Govt. of A.P. at Hyderabad.
2 Asst. Commissioner (CT) Intelligence, Abids Division Hyderabad.
3 Deputy Commercial Tax Officer, M J Market Circle, Hyderabad.
4 Commercial Tax Officer, M.J. Market Circle, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any appropriate writ order or direction under Article 226 of the constitution of India in rejection of Stay of collection of disputed sales tax order dt. 18-11-2003, by the first respondent as arbitrary, illegal and consequently grant stay of collection of disputed sales tax of Rs. 13,85,470/- Rs.5,66,696/-, Rs.2,74,849/-, Rs. 16,52,760/-, Rs. 13,194/- and 5,32,928/- pursuant to the

provisional assessment orders dt. 20-11-2002, passed by the second respondent for the assessment year 2000-2001, 2001-02 and 2002-03 under both the Acts Or in alternative direct the 4th respondent to refund back the excess amount lying credit in the name of the petitioner company for the assessment year 1999-2000 under both the Acts amounting to Rs. 44,59,478/- .

Counsel for the Petitioner: MR. S.R. ASHOK for MR.TEJPRAKASH TOSHNIWAL

Counsel for the Respondent No.: GP FOR COMMERCIAL TAXES

The Court, at the stage of admission, made the following:

Oral Order: (Per: The Hon'ble Mr. Justice Bilal Nazki)

The appeals are pending before the Tribunal. Stay was not granted by the concerned authority, pending appeals. The writ petition was filed in this court on 20-11-2003. It was admitted on 27-11-2003 and the following order has been passed in the application filed for grant of stay:

> *"There shall be stay of collection of demand. However, the respondents-appellant authority shall dispose of the appeal on merits according to law."*

Now a petition to vacate the order of interim stay has been filed in W.V.M.P.No. 4158 of 2003. The impugned order in the writ petition has been stayed on 27-11-2003. We do not think that it will be appropriate for us to go into the question whether the interim stay should have been granted in the first instance or not. The appeals are already pending. We direct the appellate authority to dispose of the appeals within a period of six (6) weeks from today. The writ petitioners and the respondents-authorities both are directed to appear before the appellate authority on 17-11-2004. The appellate authority shall, on that day, fix the date of hearing. The interim stay granted on 27-11-2003 by this court will be operative for a period of six (6) weeks from today.

The writ petition is, accordingly, disposed of. No costs.

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BILAL NAZKI, J

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S. ANANDA REDDY, J

Dt. 03-11-2004

Pvks/*

Nb: Furnish c.c. in two days.

B/o pvks.

To

1 Additional Commissioner, (CT), Letal, Office of the Commissioner of Commercila Taxex, Govt. of A.P. at Hyderabad.
2 Asst. Commissioner (CT) Intelligence, Abids Division Hyderabad.
3 Deputy Commercial Tax Officer, M J Market Circle, Hyderabad.
4 Commercial Tax Officer, M.J. Market Circle, Hyderabad.

5.2CCs to the Government Pleader for Commercial Taxes, A.P. High Court Building, Hyderabad (OUT).

6.2CD copies

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